

JEFFREY K. BARTON
Clerk to the Board



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OF BOARD OF COUNTY COMMISSIONERS
OF NOVEMBER 17, 2009

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JEFFREY K. BARTON

Clerk to the Board



November 17, 2009

**REGULAR MEETING OF THE BOARD OF COUNTY
COMMISSIONERS**

The Board of County Commissioners of Indian River County, Florida, met in Regular Session at the County Commission Chambers, 1801 27th Street, Vero Beach, Florida, on Tuesday, November 17, 2009. Present were Chairman Wesley S. Davis, Vice Chairman Joseph E. Flescher, Commissioners Peter D. O'Bryan, Bob Solari, and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, County Attorney William G. Collins II, and Deputy Clerk Maureen Gelfo.

1. CALL TO ORDER

Chairman Davis called the meeting to order at 9:00 a.m.

2. INVOCATION

Reverend Dawn Reichard, Christ by the Sea United Methodist Church, delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Peter D. O'Bryan led the Pledge of Allegiance to the Flag.

ELECTION OF BOARD OF COUNTY COMMISSION CHAIRMAN

Commissioner Davis invited County Attorney William Collins to conduct the election of Chairman of the Board of County Commissioners.

Attorney Collins opened the floor to nominations for Chairman.

Commissioner Wheeler nominated Commissioner Peter D. O'Bryan for Chairman.

Commissioner Davis nominated Commissioner Joseph E. Flescher for Chairman.

There were no other nominations, and Attorney Collins called for a vote on each nomination, respectively.

The Board, by a 3-2 vote (with Commissioners O'Bryan, Solari, and Wheeler assenting), elected Commissioner Peter D. O'Bryan as Chairman of the Board of County Commissioners for the year 2010.

Attorney Collins passed the gavel to the new Chairman, Peter D. O'Bryan, to conduct the nominations for Vice Chairman.

ELECTION OF BOARD OF COUNTY COMMISSION VICE CHAIRMAN

Chairman O'Bryan opened the floor to nominations for Vice Chairman of the Board of County Commissioners.

Commissioner Wheeler nominated Commissioner Bob Solari for Vice Chairman.

Commissioner Davis nominated Commissioner Joseph E. Flescher for Vice Chairman.

There were no other nominations, and Chairman O'Bryan called for a vote on each nomination, respectively.

The Board, by a 3-2 vote (with Commissioners O'Bryan, Solari, and Wheeler assenting), elected Commissioner Bob Solari as Vice Chairman of the Board of County Commissioners for the year 2010.

Chairman O'Bryan thanked outgoing Chairman Davis for his excellent leadership and statesmanship in conducting meetings over the past year, and Commissioner Wheeler expressed agreement with Commissioner O'Bryan's tribute.

Chairman O'Bryan announced that he would continue following the established policy of allowing the public to speak without a time limit, as long as the speakers remain on point.

4. ADDITIONS/DELETIONS TO THE AGENDA/EMERGENCY ITEMS

Chairman O'Bryan requested the following changes to today's Agenda:

ADDITION: ITEM 5.C. COMMISSIONER O'BRYAN'S REQUEST TO PRESENT A CERTIFICATE OF APPRECIATION TO THE INDIAN RIVER COUNTY RECREATION DEPARTMENT FOR HOSTING THE STATE OF FLORIDA SPECIAL OLYMPICS STATE AQUATICS CHAMPIONSHIP

ADDITION: ITEM 8.M. COMMISSIONER DAVIS'S REQUEST TO EXTEND A LETTER OF SUPPORT FOR THE CULTURAL COUNCIL OF INDIAN RIVER COUNTY (CCIRC) TO THE GRANT REVIEW PANEL/DIVISION OF CULTURAL AFFAIRS/FLORIDA DEPARTMENT OF STATE

ON MOTION by Vice Chairman Solari, SECONDED by Commissioner Davis, the Board unanimously approved the Agenda as amended.

5. PROCLAMATIONS AND PRESENTATIONS

5.A. PRESENTATION OF PROCLAMATION DESIGNATING NOVEMBER 22 – 28, 2009 AS CHRISTIAN HERITAGE WEEK IN INDIAN RIVER COUNTY

Commissioner Davis read and presented the Proclamation to Dr. Craig McGarvey, who accepted on behalf of the American Family Association of Indian River County.

5.B. PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF NOVEMBER, 2009, AS NATIONAL ADOPTION AWARENESS MONTH

Commissioner Wheeler read and presented the Proclamation to Tim Zorc, representing Christian Family Builders, who accepted on behalf of the many children in need of families. Mr. Zorc introduced his young companion, Chandler (no surname provided), and reported that more information on adoption is available at the website, christianfamilybuilders.com, or at 772-643-5700.

5.C. ADDITION:

**PRESENTATION OF CERTIFICATE OF APPRECIATION TO THE INDIAN
RIVER COUNTY RECREATION DEPARTMENT FOR HOSTING THE STATE OF
FLORIDA SPECIAL OLYMPICS STATE AQUATICS CHAMPIONSHIP**

Chairman O'Bryan read and presented the Certificate of Appreciation to Recreation Director Clifford Crawford, Assistant Director Mike Redstone, Staff Assistant III Jill Krebs, Staff Assistant I Amy Glaser, Recreational Coordinator Scott Seeley, and North Aquatic Center Facility Manager David Smith. Director Crawford noted that other key staff members involved in this event (such as Aquatics Supervisor Fawna Hattrup), were unable to be present today. Mr. Crawford thanked all the volunteers who assisted in the event, and stated he hoped to make this event a long-term tradition in our community for those athletes with special needs. He thereafter presented a video highlighting this year's Special Olympics State Swim Meet at the North County Aquatic Center.

6. APPROVAL OF MINUTES

6.A. REGULAR MEETING OF SEPTEMBER 22, 2009

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of September 22, 2009. There were none.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Regular Meeting of September 22, 2009, as written.

6.B. REGULAR MEETING OF OCTOBER 6, 2009

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of October 6, 2009. There were none.

ON MOTION by Commissioner Wheeler, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Regular Meeting of October 6, 2009, as written.

**7. INFORMATIONAL ITEMS FROM STAFF OR COMMISSIONERS
NOT REQUIRING BOARD ACTION-NONE**

8. CONSENT AGENDA

Commissioner Davis pulled for discussion, Item 8.H. *Renewal of Professional Geotechnical Services Agreement 2009-2010*

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the Consent Agenda, as amended.

8.A. APPROVAL OF WARRANTS AND WIRES OCTOBER 30, 2009 TO NOVEMBER 5, 2009

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved

the list of Warrants and Wires as issued by the Clerk to the Board for the time period of October 30, 2009 to November 5, 2009, as recommended in the memorandum of November 5, 2009.

8.B. ANNUAL SIGNATORIES RESOLUTION

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved **Resolution 2009-171**, directing depositories of County funds to honor certain authorized signatures on County checks, warrants, and other orders for payment; providing for Board of County Commissioners and Clerk of the Circuit Court signatories; rescinding Resolution No. 2008-173; delegating authority to the County Administrator to declare states of local emergencies and to act in a State of Florida declared emergency affecting Indian River County; and providing an effective date.

8.C. REQUEST TO APPROVE A ONE-YEAR CONTRACT EXTENSION WITH THE CONSERVATION FUND FOR PROFESSIONAL SERVICES RELATING TO THE COUNTY ENVIRONMENTAL LANDS PROGRAM

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously authorized the Chairman to execute the “Second (2nd) Amendment of Agreement for Professional Services between Indian River County and The Conservation Fund Charitable Trust” (TCF Charitable Trust), as recommended in the memorandum of November 5, 2009.

AGREEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8.D. 43RD AVENUE, 12TH STREET TO 18TH STREET ROAD IMPROVEMENTS

TEMPORARY CONSTRUCTION EASEMENT ACQUISITION 1586 43RD AVENUE

KEVIN IRBY

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Alternative No. 1, the \$1,518 payment for the use of the “Temporary Construction Easement”, and authorized the Chairman to execute the Agreement with Kevin Irby, as recommended in the memorandum of November 3, 2009.

DOCUMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8.E. IRCBCC SUBROGATION CLAIM / REIMBURSEMENT DUE TO IRCBCC

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved and authorized the Chairman to execute the Continental Casualty North America (CNA) Property Damage Release Form (associated with emergency fiber repair at College Lane), and return to Risk Management for final collection, as recommended in the memorandum of November 9, 2009.

DOCUMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.F. MARK'S MOBILE UNDER GROUND FUEL TANKS GEOSYNTEC
CONSULTANTS WORK ORDER #22**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. 22 with GeoSyntec Consultants, Inc., in the amount not to exceed \$20,753 with a 20% contingency for unanticipated work that may be required during the closure activities, and authorized the Chairman to execute the Work Order after it is executed by GeoSyntec Consultants, Inc. Any use of contingency will be authorized by staff and reported to the Board as an informational item as soon after as practical, all as stated and recommended in the memorandum of November 9, 2009.

WORK ORDER IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

**8.G. WORK ORDER NO. 12 (ENGINEERING/SURVEYING), MASTELLER, MOLER,
REED AND TAYLOR, INC. – FULL AND FINAL PAY, 66TH AVENUE ROADWAY
IMPROVEMENTS ROW ACQUISITIONS, 53RD STREET BOUNDARY SURVEY
LEWIS PARCEL NO. 168**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved payment of Masteller, Moler, Reed and Taylor, Inc. Invoice No. 2982-8586, dated October 30, 2009 in the amount of \$3,215.00 (for 66th Avenue Roadway

Improvements), as recommended in the memorandum of November 5, 2009.

8.H. RENEWAL OF PROFESSIONAL GEOTECHNICAL SERVICES AGREEMENT
2009-2010

Commissioner Davis invited Julie Keller, representing KSM Engineering and Testing, Inc., to address the Board.

Ms. Keller told the Board that her company had last year missed the opportunity to bid on the contract which had been put out for geotechnical services for the County. She conveyed that KSM was the only local geotechnical engineering firm employing local residents, and asked the Board for the opportunity to see if KSM could participate in an agreement to provide services to the County.

Administrator Baird suggested the Board affix a 90-day extension onto the current Professional Geotechnical Services Agreements. This would allow the County to retain geotechnical services on contract during the 90 day period, while the local firm is given a chance to submit their qualifications.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to authorize a 90-day extension to the Professional Geotechnical Services Agreement 2009-2010 with: (1) Ardaman & Associates, Inc., Port. St. Lucie, Florida; (2) Dunkelberger Engineering & Testing, Inc., Port St. Lucie, Florida; (3) AM Engineering and Testing, Inc., Port. St. Lucie, Florida; and (4) Universal Engineering Services, Inc., Rockledge, Florida; and to simultaneously open up a

Request for Qualifications (RFQ) for geotechnical services.

AGREEMENTS ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8.I. PROVIDING GEOTECHNICAL SERVICES FOR OSLO ROAD IMPROVEMENTS EAST OF US HWY 1, UNIVERSAL ENGINEERING SCIENCES, INC. WORK ORDER NO. 2, IRC PROJECT #0381

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Work Order No. 2 (Engineering) with Universal Engineering Sciences, Inc., authorizing IRC Project No. 0381 (Oslo Road Paving/Parking Lot) as outlined in the Scope of Services, and authorized the Chairman to execute same, for a not-to-exceed fee of \$4,164.00, as recommended in the memorandum of November 4, 2009.

WORK ORDER IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

8.J. APPROVAL OF RENEWAL OF THE 800 MHZ COMMUNICATIONS SYSTEM INFRASTRUCTURE MAINTENANCE CONTRACT WITH COMMUNICATIONS INTERNATIONAL, INC.

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the renewal of the Contract with Communications International, Inc., with funding provided from the

Communications/Emergency Services budget, as recommended in the memorandum of October 27, 2009.

**8.K. IRC SHERIFF'S ADMINISTRATION UNDERGROUND FUEL TANKS
GEOSYNTEC CONSULTANTS WORK ORDER #21 INCREASE BUDGET
AMOUNT**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved an increase in the amount of Work Order No. 21 with GeoSyntec Consultants, Inc., from \$60,067.00 to \$64,248.48 to include the additional concrete work authorized by staff (for underground fuel tank removal - Sheriff's Administration), as recommended in the memorandum of November 5, 2009.

**8.L. 12TH STREET SIDEWALK PROJECT (FROM 43RD AVE TO 27TH AVE) PROJECT
#0604, BID NUMBER 2008080 – SHELTRA & SON CONSTRUCTION CO.,
INC. PAYMENT APPLICATION NO. 4 AND REDUCTION OF RETAINAGE**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved Payment No. 4, modifying the Agreement between Sheltra & Son Construction Co., Inc. and Indian River County to allow the reduction of the retainage from 5% to 2.5% and to allow the contract to remain open until a change order for the additional sidewalk west of 43rd Avenue can be made, as recommended in the memorandum of November 6, 2009.

**8.M. ADDITION: REQUEST TO EXTEND A LETTER OF SUPPORT FOR THE
CULTURAL COUNCIL OF INDIAN RIVER COUNTY (CCIRC) TO THE GRANT
REVIEW PANEL/DIVISION OF CULTURAL AFFAIRS/FLORIDA
DEPARTMENT OF STATE**

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously approved extending to the Florida Department of State Grant Review Panel, a letter supporting the request of the Cultural Council of Indian River County (CCIRC) for seed funding to hire a qualified consultant in developing a comprehensive community cultural plan for Indian River County, as requested in the letter of November 17, 2009.

**9. CONSTITUTIONAL OFFICERS AND GOVERNMENTAL
AGENCIES-NONE**

10. PUBLIC ITEMS

10.A. PUBLIC HEARING

**10.A.1. SR 60 VERO LLC. REQUEST TO REZONE 19.98 ACRES FROM RM-6 TO
RM-8 (QUASI-JUDICIAL)**

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE
OFFICE OF THE CLERK TO THE BOARD

Community Development Director Bob Keating, through a PowerPoint presentation and recap of the background memorandum of November 4, 2009, provided description, conditions, and analysis of SR 60 Vero L.L.C.'s request to rezone 19.98 acres located south of State Road 60 and approximately 1,350 feet west of 58th Avenue, from RM-6, Multiple-Family Residential (up to 6 units/acre) to RM-8, Multiple-Family Residential (up to 8 units/acre). He said that it makes sense to put a residential project in this area, where residents can walk to shopping, employment, and Indian River State College. Director Keating thereafter conveyed the recommendations of both the Planning and Zoning Commission and staff for Board approval of the rezoning request.

Director Keating responded to Commissioner Davis's questions about the possibility of mixed use zoning in the subject area.

The Chairman opened the Public Hearing.

Caroline Corum (no address provided) opposed the rezoning, believing that building more residential units would be detrimental to the County's economy. She did not understand why developers were coming into the County when there were so many unsellable vacant homes.

Joseph Paladin, President Black Swan Consulting, supported the rezoning. He felt that the subject property, surrounded by a lot of commercial development, was a great place for increased density, and thought that the County should build-out inside the urban service line to the maximum capacity permitted (without giving up buffers and setbacks), in order to preserve the agricultural land and protect the Urban Service Line.

Bruce Barkett, representing SR 60 Vero LLC, advised Mrs. Corum that the property owner was not a new developer; they have had the subject property for ten years. He also noted that the rezoning would serve as a precursor for the mixed use zoning district on which County staff is working.

There being no further speakers, the Chairman closed the Public Hearing.

MOTION WAS MADE by Commissioner Wheeler,
SECONDED by Vice Chairman Solari, to approve SR60
Vero LLC's rezoning request.

Commissioner Wheeler affirmed that this was an excellent location in which to have some multi-family units and student rentals, and a good location for people who do not have cars, or who prefer to walk to and from the nearby commercial areas.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. the Board adopted **Ordinance 2009-022**, amending the Zoning Ordinance and the accompanying zoning map for ± 19.98 acres located south of S.R. 60 and approximately 1350 feet west of 58th Avenue from RM-6, Multi-Family Residential District (up to 6 units/acre) to RM-8, Multi-Family Residential District (up to 8 units/acre); and providing codification, severability, and effective date.

10.A.2. ORDINANCE REQUIRING REGISTERED SEX OFFENDERS TO NOTIFY TO OPERATORS OF TEMPORARY EMERGENCY SHELTERS (LEGISLATIVE)

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE
OFFICE OF THE CLERK TO THE BOARD

James Harpring, Esquire, Counsel for the Indian River County Sheriff's Office, explained that the purpose of the proposed Amendment to County Code Section 306.06 is to

require convicted sex offenders who need to utilize a temporary shelter, to notify emergency shelter operators of their status.

Chairman O'Bryan questioned the protocol for handling the sex offenders at the shelters, and whether shelter staff would be receiving training.

Attorney Harpring divulged that there would be a law enforcement officer at each shelter, and that all parties at the shelter would be made aware that there was a sex offender on site. He said the proposed Ordinance would provide the Sheriff's Office with a tool to identify the offender, where historically there was no legislative mandate requiring those individuals to reveal their identity.

Discussion ensued as Commissioners and Attorney Harpring discussed the differences between sex offenders and sex predators, and the impracticality of utilizing the available limited resources to designate a specific shelter for the offenders.

Responding to questions regarding the consequences of the offenders not registering at the shelters, Attorney Harpring advised that if the offenders fail to comply with the proposed Ordinance, it is a criminal violation.

The Chairman opened the Public Hearing.

There being no speakers, the Chairman closed the Public Hearing

ON MOTION by Commissioner Flescher, SECONDED by Commissioner Davis, the Board unanimously adopted **Ordinance 2009-023**, amending Indian River County Code Section 306.06, requiring registered sex offenders to identify themselves as registered sex offenders upon entry

into an emergency shelter; providing for codification; providing for severability; and providing effective date.

10.B. PUBLIC DISCUSSION ITEMS

10.B.1. REQUEST TO SPEAK FROM GORDON MICHAEL REGARDING

DEDICATION OF PORTION OF SR60 TO CORPORAL RICHARD RACZKOSKI

Gordon Michael, 2655 69th Street, provided a handout (copy on file) to the Commissioners and the Clerk, containing a brief biography and description of the incident which led to the death of Corporal Richard Rudy Raczkoski, who is the only Law Enforcement Officer to be killed in the line of duty in this County. Mr. Michael brought before the Board his quest to see the portion of SR60 between 43rd Avenue and Interstate 95 renamed the **Richard Raczkoski Memorial Highway**, and revealed that Representative Ralph Poppell had advised him to begin this initiative at the local level. Mr. Michael informed Commissioners that attached to the handout were letters of support for the renaming from State Attorney Bruce H. Colton, and former Sheriff, Roy H. Raymond.

Commissioner Wheeler, who had known **Corporal Raczkoski**, affirmed his support for doing whatever action would be required to memorialize this section of highway on his behalf.

Commissioner Davis agreed with Commissioner Wheeler.

MOTION WAS MADE by Commissioner Davis, SECONDED by Commissioner Flescher, to direct staff to draft a Resolution requesting support of the Indian River County Local Legislative Delegation in naming SR 60 between 43rd Ave and Interstate 95, the **Richard Raczkoski Memorial Highway**, and to bring it before the Board for a vote on December 1, 2009.

Commissioner Wheeler stated that with SR 60 being under construction, it would be advantageous to have the renaming done during the current Legislative Session.

Mr. Michael concurred, and advised Commissioners that should this item receive Board approval, Representative Poppell would take it to the Legislature.

Chairman O'Bryan observed that subsequent to the Board's vote at the December 1, 2009 meeting, the Resolution could be presented at the State Legislative Session scheduled for December 4, 2009.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board directed staff to draft a Resolution requesting support of the Indian River County Local Legislative Delegation in naming SR 60 between 43rd Ave and Interstate 95, the **Richard Raczkoski Memorial Highway**, and to bring it before the Board for a vote on December 1, 2009.

10.C. PUBLIC NOTICE ITEMS

10.C.1. NOTICE OF SCHEDULED PUBLIC HEARING DECEMBER 1, 2009:

SHELL LANE EAST A PORTION OF SUMMERPLACE, PETITION SEWER SERVICE, INDIAN RIVER COUNTY PROJECT NO. UCP-4039
(ADMINISTRATIVE)

10.C.2. NOTICE OF SCHEDULED PUBLIC HEARING DECEMBER 1, 2009:

PROPOSED ORDINANCE TO CREATE A NEW GIFFORD COMMUNITY CENTER MSTU (LEGISLATIVE)

County Attorney William Collins II read the notices into the record.

Vice Chairman Solari wanted to defer the public hearing to allow enough time to ensure that leaders of the appropriate organizations, such as the Gifford Youth Activity Center, PACE, the NAACP, the Front Porch Association, and the Pastor's Association, are notified of the proposed Ordinance. He added that additional time would then be required for those individuals to notify the community residents who would be affected by the increase in their taxes.

Discussion ensued as Commissioners and staff considered the most advantageous and timely methods for noticing the various groups. Commissioners also wanted to lay the groundwork for timely dissemination of this type of notice in the future.

Attorney Collins advised Commissioners to proceed with the Public Hearing already scheduled for December 1, 2009, at which time the item could be deferred no later than December 15, 2009, in order to comply with the requirements to get the information to the property appraiser and tax collector before the end of the year.

To ensure that community residents are adequately noticed of this matter, the Commissioners directed staff to provide notice of the upcoming hearing to any groups who are involved in the Gifford Community.

11. COUNTY ADMINISTRATOR MATTERS-NONE

12. DEPARTMENTAL MATTERS

12.A. COMMUNITY DEVELOPMENT-NONE

12.B. EMERGENCY SERVICES-NONE

12.C. GENERAL SERVICES-NONE

12.D. HUMAN RESOURCES-NONE

12.E. HUMAN SERVICES-NONE

12.F. LEISURE SERVICES-NONE

12.G. OFFICE OF MANAGEMENT AND BUDGET-NONE

12.H. RECREATION-NONE

12.I. PUBLIC WORKS

12.I.1. STAFF UPDATE – SECTOR 3 BEACH RENOURISHMENT PROJECT

Coastal Resource Manager Jonathan Gorham reported that the Florida Department of Environmental Protection (FDEP) had requested some revisions to the County's permit modification for the upland sand, which included replacing the material from Ft. Pierce-based Stewart Mining Industries, Inc. with material from Ranch Road Lake and Fischer & Sons. Dr. Gorham advised that the modifications would be submitted to the State by Wednesday, November 18, 2009. On that same date, staff would also be submitting to the FDEP and to the U.S. Fish and Wildlife Service, a revised plan to build the Sector 3 Project in two phases, so an evaluation can be made of the upland sand material with respect to sea turtle nesting (as directed by the Board at the November 10, 2009 meeting). Concluding his update, Dr. Gorham announced that on December 14, 2009, the FDEP would be holding a workshop and public hearing for the establishment of the Erosion Control Line.

Chairman O'Bryan acknowledged Nick Stewart of Stewart Mining Industries, Inc. for the professional manner in which he handled the disqualification of his sand source.

No Board Action Required or Taken

12.J. UTILITIES SERVICES

**12.J.1. ELECTRIC RESOLUTION AND SCOPE OF AUTHORITY OF UTILITY
ADVISORY COMMITTEE**

Director of Utilities Erik Olson gave a brief history of the current mission of the Utility Advisory Committee, which was created to consider matters relating to water, sewer, and the landfill, and present recommendations to the County Commission. In view of the recent issues with the City of Vero Beach Electric Franchise Agreement, which is coming up for closure in 2017, Dr. Steven Faherty has requested that the Board add to the powers and duties outlined in Resolution 2009-134 (governing the Committee), the additional duty of considering electric franchise matters.

Discussion ensued among Commissioners and staff regarding what to include in the scope of the additional duties being considered for the Committee.

MOTION WAS MADE by Commissioner Davis, SECONDED by Vice Chairman Solari, to direct the County Attorney to assign additional powers and duties to the Indian River County Utility Advisory Committee, specifically including Solid Waste Disposal and Electric Franchise matters.

Commissioners and staff held further discussion on what wording should be put into the updated Resolution, which will hereafter govern the Utility Advisory Committee, after which the following action was taken:

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board directed the County Attorney to amend *Resolution 2003-134, Restructuring the Indian River County Utility Advisory Committee*, to assign additional powers and duties to the Indian River County Utility Advisory Committee, specifically including Solid Waste Disposal and Electric Franchise matters.

12.J.2. REQUEST FOR QUALIFICATIONS (RFQ) FOR A CONSULTANT ON THE CONSOLIDATION OF UTILITIES

MOTION WAS MADE by Commissioner Wheeler, SECONDED by Commissioner Flescher, the Board unanimously approved for the Consultant's Competitive Negotiation Act (CCNA) Committee to send out the Request for Qualifications (RFQ) to obtain an independent consultant to investigate the consolidation of countywide water and sewer services.

Commissioner O'Bryan wanted to be sure to include in the Request for Qualifications a short timeline of perhaps two to three months, for conclusion of the study.

Director Olson divulged that final proposals must be received from the consultants by December 31, 2009, and that staff was hoping to return with some type of recommendation to the Board in the spring.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved for the Consultant's Competitive Negotiation Act (CCNA) Committee to send out the Request for Qualifications (RFQ) to obtain an independent consultant to investigate the consolidation, cooperation or partnership of water, wastewater and reuse services, as requested in the memorandum of November 9, 2009.

AGREEMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

13. COUNTY ATTORNEY MATTERS

13.A. NECESSITY OF TAKE RESOLUTION FOR PARCEL OF PROPERTY LOCATED AT 6816 49TH STREET, LINDA BRITCHER, PARCEL 142

County Attorney William Collins provided background data on staff's request for Board authorization to proceed with a Necessity of Take Resolution to acquire a ± 0.227 acre strip of right-of-way on a 5-acre parcel (located at 6816 49th Street and owned by Linda Britcher) for road improvements on 66th Avenue. He informed Commissioners that a conditional offer of \$11,747.25 has been made, and advised that staff would continue negotiations with Ms. Britcher's Attorney, Robert J. Gorman, Esquire. Attorney Collins requested Board approval of the Resolution of Necessity authorizing staff to proceed with acquisition through eminent domain should the negotiations fail.

ON MOTION BY Commissioner Davis, SECONDED by Commissioner Wheeler, the Board approved **Resolution 2009-172**, declaring a reasonable necessity to acquire certain real property for the purposes of improving and reconstructing 66th Avenue, including side street,

intersection, sidewalk and water retention pond improvements; authorizing the County Attorney to acquire the attached properties by the institution of proceedings in eminent domain, and providing an effective date.

14. COMMISSIONER ITEMS

14.A. COMMISSIONER JOSEPH E. FLESCHER, CHAIRMAN-NONE

14.B. COMMISSIONER WESLEY S. DAVIS-NONE

14.C. COMMISSIONER GARY C. WHEELER-NONE

14.D. COMMISSIONER PETER D. O'BRYAN-NONE

14.E. COMMISSIONER BOB SOLARI

14.E.1. ECONOMIC DEVELOPMENT AND STRATEGIC GOALS SUMMIT II

In light of continuing levels of unemployment, Vice Chairman Solari felt it would be beneficial to hold a second Economic Development and Strategic Goals Summit, similar to the one held on February 5, 2009, in Sebastian. He proposed some goals for the Summit: to review actions taken by the Board in the past year; to discuss the proposed Tax Abatement Referendum coming up in November 2010; and to solicit suggestions from other County residents on economic development. If the Board approves, Vice Chairman Solari wished to set a date for the Summit and hold it at the Sebastian City Council Chambers.

MOTION WAS MADE by Vice Chairman Solari,
SECONDED by Commissioner Wheeler, to hold a second

Economic Development and Strategic Goals Summit,
Economic Development and Strategic Goals Summit II.

Discussion ensued during which Commissioner Davis expressed his interest in having discussion at the Summit on the Jobs Grant Program, with Chairman O’Bryan (the non-voting Commissioner Liaison to the Economic Development Council), agreeing to provide an update.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board approved to hold an *Economic Development and Strategic Goals Summit II.*

It was the Board CONSENSUS for Vice Chairman Solari to come back with further information on the time certain, and with confirmation that the City of Sebastian will host the meeting at the Sebastian City Council Chambers. He was also asked to organize and chair the *Economic Development and Strategic Goals Summit II.*

14.E.2. RECOMMENDED ELECTRIC RESOLUTION

Vice Chairman Solari relayed the request of Dr. Stephen Faherty (who was unable to attend today’s meeting) for the Board to adopt a Resolution supporting Legislation that would allow the City of Vero Beach Electric Utility to be placed under the Public Services Commission controls.

MOTION WAS MADE by Vice Chairman Solari, SECONDED by Commissioner Davis, to approve the sample Resolution of support for local Legislation to allow the City of Vero Beach Electric Utility to be placed under the Public Services Commission controls, for presentation at the State Delegation’s December 4, 2009 meeting.

Chairman O'Bryan asked whether the sample Resolution provided by Mr. Faherty would be sufficient for the Board's purposes, and Attorney Collins stated that he would put the proposed document into a more standard format.

Commissioner Davis agreed with having Attorney Collins review the sample Resolution, and requested that he return with the updated Resolution for Board approval by December 1, 2009, so the Commissioners can present it at the December 4, 2009 meeting of the State Delegation.

The Chairman CALLED THE QUESTION, and the Motion carried unanimously. The Board directed the County Attorney to draft a Resolution supporting Local Legislation to allow the City of Vero Beach Electric Utility to be placed under the Public Services Commission controls, and to bring back the subject document by December 1, 2009 in time for the December 4, 2009 meeting of the Indian River County State Delegation.

15. SPECIAL DISTRICTS AND BOARDS

15.A. EMERGENCY SERVICES DISTRICT-NONE

15.B. SOLID WASTE DISPOSAL DISTRICT-NONE

15.C. ENVIRONMENTAL CONTROL BOARD-NONE

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE
OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

16. ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at 10:23
a.m.

ATTEST:

Jeffrey K. Barton, Clerk

Peter D. O'Bryan, Chairman

Minutes Approved: _____

BCC/MG/2009Minutes